IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 239 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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JETHUBHA MODAJI

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 239 of 2002

MS KD PARMAR for Petitioner No. 1

MR SAMIR DAVE APP for Respondents.

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 03/04/2002

ORAL JUDGEMENT

1. Rule. Mr. Samir Dave, learned A.P.P. waives service of notice of Rule on behalf of the respondents.

2. The present petitioner has filed this petition for releasing him on parole on the ground that he has received Rs.20,000/- from the Taluka Development Officer,

Rapar as his house collapsed in earthquake at village Nikpur Tal. Rapar, Dist. Kuchh-Bhuj and he has to start repairing work of his house. On receiving the aforesaid amount, the petitioner applied to the respondent no. 3 to release him on parole to enable him to repair his collapsed house. The petitioner's house is assessed and given G-5 category by the authority concerned. Though the petitioner has submitted his application to the respondent no. 3, his application for releasing him on parole has not been considered and decided till this date. The show-cause notice issued by the Earthquake Relief Engineer, Nikpur Tal. Rapar dated 25-12-2001 is produced at Annexure-B at page 7 of this file wherein it is stated that though the petitioner has received the amount of Rs.20000/- he has not started even repairing work of his house. It reflects from the above show-cause notice itself that prior to that even public notice was also issued and still the petitioner has not replied to the same public notice and therefore above special notice dated 25-12-2001 has issued directing the petitioner to start repairing his house within five days from the date of receipt of the notice.

3. But the fact remains that on one hand, the authority has issued the show cause notice to start repairing work of his house and on the other hand when the petitioner applied for to the respondent no. 3 to release him on parole in the month of January, 2002, the same has not been decided by the respondent no.3. It is an act contrary to each other more particularly when the respondent no. 3 knows very well that the petitioner is a convict prisoner and he is in Central Jail at Rajkot, the respondent no. 3 ought to have applied his mind on the application of the petitioner for releasing on parole and instead of doing so, the respondent no. 3 has not decided the application of the petitioner and on other other hand the other authority has issued show cause notice to the petitioner to start repairing work of his house within five days from the date of receipt of the show cause notice.

4. Under these circumstances, the respondent no. 3 is directed to decide the application submitted by the petitioner - Jethubha Modaji a convict prisoner who is undergoing the sentence at Central Jail, Rajkot, as expeditiously as possible. The respondent no. 3 is further directed to inform in writing the petitioner about the decision taken on the petitioner's application for releasing him on parole. The Mr. Dave, A.P.P. is also directed to send the copy of this order to the respondent no. 3 for taking necessary steps in the

matter.

5. In case of difficulty, the petitioner would be at liberty to approach this Court.

6. In view of the above directions and observations, this application stands disposed of. Rule is discharged.

(R.P. Dholakia, J.)

/JVSatwara/